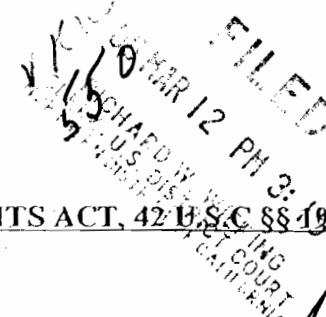


E-filing



1 COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT, 42 U.S.C §§ 1983

2
3 Name Price Phillip
4 (Last) (First)

(Initial)

5 Prisoner Number J-751886 Institutional Address No longer in custody.7
8
9 UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA10 Phillip Price

11 (Enter the full name of plaintiff in this action.)

CV 08

1416 VRW

12 vs.

Case No.

(To be provided by the clerk of court)

13 Gov. Arnold Schwarzenegger
14 Thomas Hoffman Dir. of C.O.C.
15 James Tilton - Secretary of C.O.C.
16 Shirley Poe Reg. Parole Adm.
17 Deputy Comm. Robert Ross,
(Enter the full name of the defendant(s) in this action))18 COMPLAINT UNDER THE
CIVIL RIGHTS ACT,
42 U.S.C §§ 1983 (PR)

Demand for a Jury Trial

Pendant Jurisdiction

19 /All questions on this complaint form must be answered in order for your action to proceed..

20 I. Exhaustion of Administrative Remedies

21 [Note: You must exhaust your administrative remedies before your claim can go forward. The court will dismiss any unexhausted claims.]

22 A. Place of present confinement None

23 B. Is there a grievance procedure in this institution?

24 YES () NO ()

25 C. Did you present the facts in your complaint for review through the grievance procedure?

26 YES () NO ()

27 D. If your answer is YES, list the appeal number and the date and result of the

1 appeal at each level of review. If you did not pursue a certain level of appeal,
2 explain why.

3 1. Informal appeal There is no appeal
4 procedure, it was eliminated May 1,
5 2004 by the Board of Parole Hearings. First
6 formal level _____
7 _____
8 _____

9 3. Second formal level _____
10 _____
11 _____

12 4. Third
13 formal level _____
14 _____
15 _____

16 E. Is the last level to which you appealed the highest level of appeal available to
17 you?
18 YES () NO ()

19 F. If you did not present your claim for review through the grievance procedure,
20 explain why. _____
21 _____
22 II. Parties

23 A. Write your name and your present address. Do the same for additional plaintiffs,
24 if any.

25 Philip Price, 624 14th St. Oakland, CA
26 94612 (510)419-0360
27 _____

28 B. Write the full name of each defendant, his or her official position, and his or her

1 place of employment.

2 Arnold Schwarzenegger, Governor of California.
3 Thomas Hoffman Director of C.D.C.R., James
4 Tilton-Agency Secretary, Shirley Poe,
5 Regional Parole Administrator, Deputy
6 Commissioner Robert Roos. III.

7 Statement of Claim

8 State here as briefly as possible the facts of your case. Be sure to describe how each
9 defendant is involved and to include dates, when possible. Do not give any legal arguments or
10 cite any cases or statutes. If you have more than one claim, each claim should be set forth in a
11 separate numbered paragraph.

12 Claim No. 1 - This complaint is against
13 Deputy Commissioner Robert Roos of
14 the California Department of Corrections
15 and Rehabilitation in his official and
16 individual capacity - while acting
17 under the color of state law and enforcing
18 a policy and custom used by C.D.C.R.
19 On March 13, 2006, at the Redwood City
20 County Jail in San Mateo County, before
21 Comm. Roos at a Parole Revocation hearing-
22 Pertaining to an alleged violation of having
23 Sex with a minor. Plaintiff is not and was
24 not a registered (see page attached) →

25 IV. Relief

26 Your complaint cannot go forward unless you request specific relief. State briefly exactly
27 what you want the court to do for you. Make no legal arguments; cite no cases or statutes.

Claim No.1 Continued:

Sex offender.(no medical or doctor reports were used neither was there a police report). Agent of record was not present during the hearing. Plaintiff was not allowed to confront the alleged victim, neither was Plaintiff allowed to hear the alleged testimony on tape at the revocation hearing, Plaintiff requested a copy of the tape but never received a copy.

Deputy Comm. Roos revoked Parole for one year. Plaintiff contends that Deputy Comm. Roos, violated his Sixth, Fourteenth Constitutional Amendment rights and his California Constitutional Rights under Article I-Sections 1,6, and 7.

Plaintiff also contends that Deputy Comm. Roos, breached the plea bargain contract of 16 months- (Plaintiff has attached the abstract of Judgment as exhibit A).

CLAIM TWO:

The Defendants are state officials who Plaintiff is suing in their official and individual capacity and who are responsible for the policies, procedures and customs used to conduct parole revocation proceedings and who are the supervisors of Deputy Comm. Roos and who knew or should have known of the plea-bargain contract of 16 months. The defendants are Arnold Schwarzenegger Governor of the state of California, Thomas Hoffman - Director of C.D.C.R. James Tilton - Agency Secretary, and Shirley Poe - Regional Parole Administrator.

Plaintiff contends that defendants implicate a policy and custom - that violated his 6th and 14th Amendment Rights and equal protection of law) Parole and Parole revocation hearings that exposed Plaintiff to a sentence in excess of the relevant statutory maximum and that breached the plea bargained contract of 16 months. (Plaintiff has attached as exhibit-B a copy of the C.D.C. Form 1502 which shows a discharge date of 8-11-07 - well in excess of 16 months).

CLAIM TWO CONT.

The mandatory parole term exceeded the contract by restraining Plaintiff's liberty and exposing him to a much harsher penalty and violating his rights to a jury trial.

NOTE: Plaintiff discharged this No. T-95188 on 8-11-07, but was incarcerated at the time, and has been given another number of F-90712, Plaintiff was released on 2-20-08.

1 Relief -

2 Plaintiff is demanding a Jury trial
3 and \$ 5,000,000.00 in damages - and punitive
4 damages.

5 Injunctive Relief - The court order an
6 investigation of racial discrimination of the
whole Department of C.D.C.R.

7 I declare under penalty of perjury that the foregoing is true and correct.

8
9 Signed this 9 day of March, 2008

10
11 Phillip Purce
12 (Plaintiff's signature)

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SINGLE, CONCURRENT, OR FULL-TERM CONSECUTIVE COUNT FORM
(Not to be used for multiple count convictions or for 1/3 consecutive sentences.)

CR-290.1

<input checked="" type="checkbox"/> SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO	<input type="checkbox"/> MUNICIPAL BRANCH OR JUDICIAL DISTRICT 41100			FILED	
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT: PHILLIP PRICE				DOB: 03-27-63	CASE NUMBER SC051678A
AKA: PHILLIP GERAL PRICE, ETC.				<input type="checkbox"/> NOT PRESENT	CMS
CII# 007092603				<input type="checkbox"/> AMENDED ABSTRACT	By DEPUTY CLERK
BOOKING #: 0209058					
COMMITMENT TO STATE PRISON ABSTRACT OF JUDGMENT		PRESENT	<input type="checkbox"/> AMENDED ABSTRACT		
DATE OF HEARING 12-11-02		DEPT. NO. 12	JUDGE H J ELLIS		
CLERK MARK OSBORNE		REPORTER JENELL MULLANE	PROBATION NO. OR PROBATION OFFICER NONE STATED		
COUNSEL FOR PEOPLE SARAI OBERMEYER		COUNSEL FOR DEFENDANT PRIVATE DEFENDER			<input checked="" type="checkbox"/> APPTD.

Defendant was convicted of the commission of the following felony:

CNT.	CODE	SECTION NUMBER	CRIME	YEAR CRIME COMMITTED	DATE OF CONVICTION (MO./DATE/YEAR)	CONVICTED BY			TERM (M. Y.)	TIME IMPOSED	
						JURY	COURT	PLEA		YRS.	MOS.
2	PC	496(A)	RECEIVED KNOWN STOLEN PROPERTY	2002	06-12-02			X	L	1	4

ENHANCEMENTS charged and found to be true TIED TO SPECIFIC COUNTS (mainly in the PC 12022 series). List each count enhancement horizontally. Enter time imposed for each or "S" for stayed. DO NOT LIST enhancements stricken under PC 1385.

CNT.	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	TOTAL

ENHANCEMENTS charged and found to be true FOR PRIOR CONVICTION OR PRISON TERMS (mainly in the PC 667 series). List all enhancements horizontally. Enter time imposed for each or "S" for stayed. DO NOT LIST enhancements stricken under PC 1385.

ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	TOTAL

 Defendant was sentenced pursuant to PC 667 (b)-(i) or PC 1170.12 (two-strikes).

FINANCIAL OBLIGATIONS (including any applicable penalty assessments):

- a. RESTITUTION FINE of: \$200.00 per PC 1202.4(b) forthwith per PC 2085.5.
- b. RESTITUTION FINE of: \$200.00 per PC 1202.45 suspended unless parole is revoked.
- c. RESTITUTION of: \$ per PC 1202.4(f) to victim(s)* Restitution Fund
(*List victim name(s) if known and amount breakdown in item 7, below.)
(1) Amount to be determined. (2) Interest rate of: % (not to exceed 10% per PC 1204.4(f)(3)(F)).
- d. LAB FEE of: \$ for counts: per H&SC 11372.5(a).
- e. DRUG PROGRAM FEE of \$150 per H&SC 11372.7(a). f. FINE of \$ per PC 1202.5.

TESTING: AIDS DNA pursuant to PC 1202.1 PC 290.2 other (specify): 296PC AFTER 1-99

Other orders (specify):

TOTAL TIME IMPOSED: 1 4

 This sentence is to run concurrent with (specify):

Execution of sentence imposed

- a. at initial sentencing hearing.
- b. at resentencing per decision on appeal.
- c. after revocation of probation.
- d. at resentencing per recall of commitment. (PC 1170(d).)
- e. other (specify):

1. DATE SENTENCE PROOUNCED 12-11-02 CREDIT FOR TIME SPENT IN CUSTODY 326 TOTAL DAYS: TIME 218 ACTUAL LOCAL TIME 218 LOCAL CONDUCT CREDITS 108 4019 DMH SERVED TIME IN STATE INSTITUTION CDC CRC2. The defendant is remanded to the custody of the sheriff forthwith after 48 hours excluding Saturdays, Sundays, and holidays.
To be delivered to the reception center designated by the director of the California Department of Corrections.
 other (specify): SAN QUENTIN STATE PRISONS.

LERK OF THE COURT: I hereby certify the foregoing to be a correct abstract of the judgment made in this action.

DEPUTY'S SIGNATURE

VIRGILIO S. CASTRO

DATE

12-11-02

his form is prescribed under PC 1213.5 to satisfy the requirements of PC 1213 for determinate sentences. Attachments may be used but must be referred to in this document.

STATE OF CALIFORNIA
CHARGE REPORT
CDC 1502 (b) (08/05)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

DISTRIBUTION:
ORIGINAL - C-FILE
YELLOW - FIELD FILE
PINK - PAROLEE

REPORT TO: BOARD OF PRISON TERMS

EXHIBIT-B

CDC NUMBER T75188	NAME (LAST, FIRST, MI) Price, Phillip		NAME BOOKED AS same	REGION/UNIT II/Redwood City
ARREST DATE 05-07-07	ARRESTING AGENCY Menlo Park Police	BPT REFERRALS	<input type="checkbox"/> MANDATORY <input checked="" type="checkbox"/> NON-MANDATORY	BOOKING NUMBER AND/OR LOCATION 209058/San Mateo Co. jail
ARREST CODE * D	* ARREST CODES: A DAPO STAFF ALONE AB DAPO ASSISTED BY LAW ENFORCEMENT AGENCY		B LAW ENFORCEMENT AGENCY ALONE D LAW ENFORCEMENT AGENCY WITH INFORMATION FROM DAPO	
HOLD DATE 05-05-07	DISCOVERY DATE 05-07-07	HOLD REMOVED DATE Intact	AGENT OF RECORD M. Babb	CONTROLLING DISCHARGE DATE 08-11-07
CHARGES AND CODES			CHARGES AND CODES	
1. Cond. 4: Possession of drug paraphernalia (750)			4.	
2. Cond. 4: Possession of cocaine (717)			5.	
			6.	
REASON FOR RETAINING PAROLE HOLD: PAROLEE DANGER TO:				DATE COPY GIVEN TO PAROLEE 5/10/07
<input type="checkbox"/> ABSCOND <input checked="" type="checkbox"/> SELF <input type="checkbox"/> PROPERTY-OTHERS <input type="checkbox"/> SAFETY-OTHERS				NAME OF PERSON NOTICING PAROLEE J. Babb

Non-Priority

Charges 1-2: Price was arrested by Menlo Park Police for being in possession of cocaine and drug paraphernalia on 05-07-07. He was transported and booked into the San Mateo County jail. The report number is 07-1304.

PAROLE AGENT'S RECOMMENDATION:

Retain parole hold pending further investigation.

PAROLE AGENT'S SIGNATURE G. Lee		DATE 05-07-07	
UNIT SUPERVISOR'S ACTION	<input checked="" type="checkbox"/> DECISION <input type="checkbox"/> REVIEW <input checked="" type="checkbox"/> RETAIN HOLD	<input type="checkbox"/> RELEASE HOLD AS OF (DATE):	<input type="checkbox"/> CANCEL WARRANTS - WANTS
<input type="checkbox"/> CONTINUE ON PAROLE	<input type="checkbox"/> CONTINUE IN OUT-PATIENT STATUS	<input type="checkbox"/> *DISCHARGE EFFECTIVE DATE:	<input type="checkbox"/> RETAIN ON PAROLE
<input type="checkbox"/> REINSTATE ON PAROLE AS OF (DATE):	<input type="checkbox"/> TIME LOSS <input type="checkbox"/> NO TIME LOSS	<input type="checkbox"/> SUSPEND/REINSTATE IN OPS AS OF (DATE):	<input type="checkbox"/> REFER TO BPT
SPECIAL CONDITION(S):		<input type="checkbox"/>	<input type="checkbox"/> ADD <input type="checkbox"/> DELETE
UNIT SUPERVISOR'S COMMENTS/RECOMMENDATION			
<input checked="" type="checkbox"/> I HAVE LOOKED AT THE INFORMATION. I BELIEVE THERE IS PROBABLE CAUSE TO MAINTAIN THE PAROLE HOLD.			

UNIT SUPERVISOR'S SIGNATURE C. Gabbadon	DATE 5-9-07
PAROLE ADMINISTRATOR'S COMMENTS/DECISION	
<input type="checkbox"/> REFER TO BPT	<input type="checkbox"/> *DISCHARGE EFFECTIVE DATE
FIELD ADMINISTRATOR'S SIGNATURE	
DATE	

